

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

IN RE: § CASE NO. 17-10277-tmd
§
TOWERS OF LAKEWAY, L.C. §
§
DEBTOR. § CHAPTER 7 PROCEEDING

TRUSTEE'S MOTION TO AUTHORIZE RANDOLPH N. OSHEROW,
TRUSTEE, TO SELL BY SEALED BID, DEBTOR'S INTEREST IN IN ANY AND ALL
CHAPTER 5 CLAIMS THE TRUSTEE HAS OR MIGHT HAVE -FREE AND
CLEAR OF ALL LIENS AND INTERESTS AND REQUEST FOR RELIEF (WITH 21-DAY
LANGUAGE)

**THIS PLEADING REQUESTS RELIEF THAT MAY BE ADVERSE TO YOUR
INTERESTS.**

**IF NO TIMELY RESPONSE IS FILED WITHIN TWENTY-ONE (21) DAYS FROM
THE DATE OF SERVICE, THE RELIEF REQUESTED HEREIN MAY BE GRANTED
WITHOUT A HEARING BEING HELD.**

A TIMELY FILED RESPONSE IS NECESSARY FOR A HEARING TO BE HELD.

NOW COMES RANDOLPH N. OSHEROW, the Chapter 7 Trustee ("Trustee") of the
bankruptcy estate of TOWERS OF LAKEWAY, L.C., and files his Motion to Authorize
Randolph N. Osherow, Trustee to Sell Debtor's Interest in any and all Chapter 5 claims the
Trustee has or might have - Free and Clear of All Liens and Interests. The Trustee would
show the Court the following:

1. On 3/7/17, a voluntary petition was filed initiating this case under Chapter 7 of the
Bankruptcy Code; Randolph N. Osherow was subsequently appointed Trustee (3/8/17). He
continues to act in that capacity.

I. PROPERTY TO BE SOLD

2. The property of the estate to be sold by this Motion consists of the Debtor's
interest in ; in any and all Chapter 5 claims the Trustee has or might have.

The Trustee has received a bid to purchase the property for \$5000.00 from Hill Country
Allergy & Asthma, PLLC. The Trustee proposes to sell all the Debtor's interest in any and all

A copy of the proposed Order attached as
Exhibit "A".

Chapter 5 claims the Trustee has or might have, including but not limited to all causes of action which could have been brought by the Trustee under Chapter 5 of the Bankruptcy Code, including causes of action under §§ 542, 544, 547, 548, 549 & 550, to Hill Country Allergy & Asthma, PLLC for \$5,000.00, or to any higher bidder subject to Court Approval.

3. The Trustee proposes to sell the Debtors' interest in the property. Sealed bids may be submitted (at least \$6,000.00) to the Trustee, Randolph N. Osherow, 342 W. Woodlawn, Suite 100, San Antonio, TX 78212, by **Wednesday, September 13, 2017, at 4:00 p.m.** All interested bidders, please submit their highest and best offer with their checks for the full amount of their bids, of no less than \$6,000.00, directly to the Trustee at 342 W. Woodlawn, Suite 100, San Antonio, TX 78212. The sealed bids will be opened in the office of the Trustee, Randolph N. Osherow, located at 342 W. Woodlawn, Suite 100, San Antonio, TX 78212, at that time before any and all bidders who wish to attend and two independent witnesses. All disinterested third parties requesting notice of Trustee's sales have been served with this Motion to Sell Real Property of Debtors.

II. TRUSTEE'S ESTIMATED VALUE AND BASIS THEREOF

4. The Debtor did not list this asset on its schedules.

III. MARKETING OF SAID PROPERTY

5. This Motion is being sent to the mailing matrix for the bankruptcy estate.

IV. TAX CONSEQUENCES

6. The Trustee believes there may be tax consequences to this sale. The maximum tax gain is approximately 20% of the gross sales price, but the Trustee believes the rate will be 15%. The estimated tax basis is \$-0- and this is a pass thru entity, so the equity holders will receive K-1s for any capital gain.

V. LIENS

7. The Trustee knows of no liens on the property. The Trustee proposes to sell the potential Chapter 5 claims, free and clear of all liens and interests. No release of liens shall be required to pass good, clear title.

VI. ESTIMATED COST OF SALE AND NET TO THE ESTATE

The following estimated costs are related to this sale:

Total Sale Price	\$5,000.00
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8. The estimated net to the general (administrative, priority and secured) creditors is \$5,000.00.

9. This sale shall be free and clear of all liens and interest holders. The Trustee makes no warranties nor representations regarding this alleged asset. These claims are being sold as is, where is, without any representation that the Chapter 5 claims have any value or even if there are any Chapter 5 claims in existence.

10. It is the Trustee's position that a sale in this manner is in the best interest of the estate and will net the estate the most money for distribution to creditors. A copy of this Motion is being forwarded to all creditors in accordance with Local Rule 9014.

WHEREFORE, PREMISES CONSIDERED, Trustee prays this Court enter an Order authorizing him to sell the above-described real property free and clear of all liens and interests and that such order be entered after twenty (21) days, unless an objection is timely filed in accordance with Rule 9014.

Respectfully submitted this 28, August, 2017.



/s/ Randolph N. Osherow
RANDOLPH N. OSHEROW, Chapter 7 Trustee
Texas State Bar No. 15335500
342 West Woodlawn, Suite 100
San Antonio, Texas 78212
(210) 738-3001 - Telephone
(210) 737-6312 - Telefax
rosherow@hotmail.com

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
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IN RE: § CASE NO. 17-10277-tmd
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DEBTOR. § CHAPTER 7 PROCEEDING

ORDER ON MOTION AUTHORIZING TRUSTEE TO SELL PROPERTY
OF DEBTOR (BY SEALED BID)-CHAPTER 5 CAUSES OF ACTION - FREE AND CLEAR
OF ALL LIENS AND INTERESTS

On the day this Order was signed, came to be considered by the United States Bankruptcy Judge the Trustee's Motion to Sell Chapter 5 Causes of Action (by sealed bid) – Debtor's interest, in any and all Chapter 5 claims the Trustee has or might have, to Hill Country Allergy & Asthma, PLLC for \$5,000.00, or to any higher bidder subject to Court Approval. The Court having considered the Motion finds that it has merit and should be granted. It is, therefore,

ORDERED, ADJUDGED, and DECREED that the Trustee is hereby authorized to sell the Debtor's interest in any and all Chapter 5 claims the Trustee has or might have, including but not limited to all causes of action which could have been brought by the Trustee under Chapter 5 of the Bankruptcy Code, including causes of action under §§ 542, 544, 547, 548, 549 & 550, to Hill Country Allergy & Asthma, PLLC for \$5,000.00, or to any higher bidder subject to Court Approval.

It is further

ORDERED, ADJUDGED, and DECREED that the sale of the foregoing property shall be free and clear of all liens and interests, valid and invalid, and the same is hereby approved and affirmed. It is further

EXHIBIT "A"

ORDERED, ADJUDGED, and DECREED that the Trustee is authorized to execute the documents necessary to effectuate the sale of the above-described property.

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RANDOLPH N. OSHEROW
Chapter 7 Trustee
342 W Woodlawn, Suite 100
San Antonio, TX 78212

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 CERTIFICATE OF MAILING

I certify that copies of the Motion To Authorize Randolph N. Osherow, Trustee, Motion To Sell Debtor's Interest In 5 causes of Action - FREE AND CLEAR OF ALL LIENS AND INTERESTS, were mailed to the below named persons, by first class mail, on this the 28 day of August, 2017:

Towers of Lakeway, L.C.
1000 Westbank Drive, Suite 4A
Austin, TX 78746
Debtor

D. Daniel Roberts
C. Daniel Roberts & Associates, P.C.
1602 East Cesar Chavez
Austin, TX 78702
Counsel for Debtor

U.S. Trustee
903 San Jacinto Boulevard
Suite 230
Austin, TX 78701

Hill Country Allergy & Asthma, PLLC
c/o Edward Watt
Watt Law Firm, P.C.
800 Hwy 290 W
Building A, Suite 100
Dripping Springs, TX 78620
Purchaser

SEE ATTACHED MAILING MATRIX FOR A LIST OF PARTIES SERVED WITH NOTICE.

/s/ Randolph N. Osherow
RANDOLPH N. OSHEROW, Chapter 7 Trustee
Texas State Bar No. 15335500
342 West Woodlawn, Suite 300
San Antonio, Texas 78212
(210) 738-3001 - Telephone
(210) 737-6312 - Telefax
rosherow@hotmail.com

Hill Country Allergy & Asthma, P.L.L.C.
1927 Lohmans Crossing Rd., Suite 200
Austin, TX 78734-5243

Hill Country Allergy & Asthma, PLLC
Watt Law Firm, P.C.
800 Hwy. 290 W. Bldg. A, Ste. 100
Dripping Springs, TX 78620-4004

LEE RIGBY
Smith Robertson Law Firm
221 West 6th Street
Austin, TX 78701

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800 Hwy. 290 West
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Dripping Springs, TX 78620-4004